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Ronald J. Craswell

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EXAMINER

DANIEL JR, WILLIE J

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

06/08/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/538,794

Applicant(s)

CRASWELL ET AL.

Examiner

WILLIE J. DANIEL JR

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 10-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 10-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is in response to applicant's amendment filed on 16 March 2010. **Claims 1-5 and 10-12** are now pending in the present application and **claims 6-9 and 13-29** are canceled. This office action is made **Non-Final**.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 16 March 2010 has been entered.

Claim Objections

3. **Claims 2-5 and 10** are objected to because of the following informalities:
 - a. Claims 2-5 include the limitation "...**The** apparatus of..." as recited in line(s) 1 of claim 2. The Examiner interprets as --**The wireless computing** apparatus of-- (see claim 1, line(s) 1) and suggests replacing said limitation to have proper **antecedent** and help clarify the claim language.
 - b. Claims 2-3 include the limitation "...**the** executable instructions..." as recited in line(s) 1 of claim 2. The Examiner interprets as --**the computer** executable instructions-- (see claim 1, line(s) 3) and suggests replacing said limitation to have proper **antecedent** and help clarify the claim language.

- c. Claim 10 recites the limitation "...**the** wireless computing apparatus..." in line(s) 12-14 of the claim. The Examiner interprets as -- **the wireless mobile device**-- (see claim 10, line(s) 1) and suggests replacing said limitation to have proper **antecedent** and help clarify the claim language.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 4-5 and 10-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

- a. **Claim 4** recites the limitation "...second group...update currently **installed**..." in line(s) 2-3 of the claim. For example, the orig. spec. does not convey whether or not the second group is installed or not installed. See spec. pg. 10, lines 16-20; Figs. 5 & 6 'ref. 660'.
- b. **Claim 5** recites the limitation "...second group...update **inapplicable**..." in line(s) 2 of the claim. For example, the orig. spec. describes updates that are not relevant but

does not provide further details to explain *inapplicable*. See spec. pg. 10, lines 16-20; Figs. 5 & 6 'ref. 660'.

- c. **Claim 10** recites the limitation "...first group...updates is **compatible** with...and second group...updates is **incompatible**..." in line(s) 11-14 of the claim. For example, the orig. spec. describes updates that are relevant or not relevant but does not provide further details to explain *compatible* and *incompatible*. See spec. pg. 9, lines 21-25; pg. 10, lines 16-20; Figs. 5 & 6 'ref. 660'.

Regarding **claim 4-5 and 10**, the claim(s) include(s) a limitation that is not supported by the specification as originally filed. The applicant on pg. 5, 5th full par., of remarks section states, "...page 4, lines 1-4; page 7, lines 21-30; page 9, lines 11-32; page 10, lines 1-26; the Abstract; and Figures 1, 2, and 4-6..." as a cited area of support for the newly amended claimed limitation(s). Upon reviewing the cited area and full description, the cited area does not support or convey the newly amended claim limitation "...of items 4a-c above...". The applicant is advised to review the subject matter of the specification (see pg. 9, lines 21-25; pg. 10, lines 16-20; Figs. 5 & 6 'ref. 660'), which basically describes determining updates that are relevant or not relevant. Consequently, there is no language in the specification that describes the limitation "...of items 4a-c above..." as recited in said newly amended claims. Applicant is advised to clearly and concisely provide claim language that is consistent and correlates to the specification and be mindful not to improperly utilize language that is not supported.

5. Due to the 112 rejection of the current claim language, the Examiner has given a reasonable interpretation of said language and the claims are rejected based on the Examiner's broadest

and best interpretation of the claim language. Please see the detailed rejection below for the broadest reasonable interpretation of the claim language in view of the prior art of record.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kawamata et al.** (hereinafter Kawamata) (**US 6,820,259 B1**) in view of **Herschberg et al.** (hereinafter Herschberg) (**US 2003/0022657 A1**).

Regarding **claim 1**, Kawamata discloses a terminal apparatus (e.g., 1250, 150) which reads on the claimed “wireless computing apparatus” (see col. 10, lines 44-50; Figs. 1-2 & 12) having:

a processor (e.g., terminal side control unit 180) { (see col. 11, lines 47,62-64; Figs. 2 & 12) }; and

a memory (e.g., navigation unit 195) comprising computer executable instructions which, upon execution (e.g., command) are operative to cause the wireless computing apparatus (e.g., 1250, 150) to { (see col. 3, lines 5-13,30-33,49-51; col. 11, lines 47-51, 62-64; Figs. 2 & 12), where the software of the navigation unit is updated from the issuing of a software update command }:

request available updates { (see col. 10, lines 61-63; col. 11, lines 58-61; col. 12, lines 35-40; Figs. 13 'ref. 1305', 16 'ref. 1610') };

receive, in response to said request, an update catalog (e.g., software group) of available updates { (see col. 10, lines 61-63; col. 13, lines 15-28; Figs. 13 'ref. 1325' & 18) },

receive, with the update catalog (e.g., software group), mandatory updates (e.g., software group necessary) { (see col. 13, lines 15-23, 46-51; Figs. 7 & 18) };

install the received mandatory updates (e.g., software group necessary) { (see col. 13, lines 46-51; col. 14, lines 12-16; col. 10, lines 37-40; Figs. 7, 15 'ref. 1515', & 18). }

Kawamata does not specifically disclose having the feature(s) the available updates comprising available discretionary updates; determine that a first group of the available discretionary updates is relevant to the wireless computing apparatus, and that a second group of the available discretionary updates is irrelevant to the wireless computing apparatus; and depict representations of the available discretionary updates of the first group in a selectable manner to enable user control over installation of the relevant discretionary updates. However, the examiner maintains that the feature(s) the available updates comprising available discretionary updates; determine that a first group of the available discretionary updates is relevant to the wireless computing apparatus, and that a second group of the available discretionary updates is irrelevant to the wireless computing apparatus; and depict representations of the available discretionary updates of the first group in a selectable manner to enable user control over installation of the relevant discretionary updates was well known in the art, as taught by Herschberg.

In the same field of endeavor, Herschberg discloses the feature(s) the available updates comprising available discretionary updates (e.g., optional applications) { (see pg. 1, [0007, lines 7-9; 0009, lines 7-13]; pg. 4, [0093, 0095]), where the system has optional applications that the user has the option to download (see pg. 4, [0086, 0088]; Fig. 1a) };

determine that a first group of the available discretionary updates (e.g., optional applications) is relevant (e.g., compatible) to the wireless device (106) which reads on the claimed "wireless computing apparatus" { (see pg. 1, [0007, lines 7-9; 0009, lines 7-13]; pg. 3, [0076]; pg. 4, [0093]; Fig. 2), where the system provides optional applications for downloading (see pg. 4, [0086, 0088]; pg. 10, [0181]; Figs. 1a & 46c) }, and

that a second group of the available discretionary updates is irrelevant (e.g., not compatible including permission deny/unauthorized application) to the wireless computing apparatus (106) { (see pg. 1, [0007, lines 7-13]; pg. 4, [0092]; pg. 10, [0177-0178]), where applications that are not compatible are denied or not downloaded and where installed applications that are denied or incompatible are deleted from device (106) (see pg. 11, [0195; 0197, lines 11-15; 0198, lines 11-16; 0199, lines 6-10]) }; and

depict representations of the available discretionary updates of the first group in a selectable manner to enable user control over installation of the relevant discretionary updates { (see pg. 1, [0009, lines 7-13]; pg. 10, [0181, lines 1-4]; pg. 11, [0199, lines 10-16]; Figs. 1a & 46c), where the system prompts a user to select optional applications for download.} As further support, Herschberg at the least discloses the feature(s) receive, with the update catalog, mandatory updates (e.g., required applications) { (see pg. 1, [0009, lines

7-13]; pg. 4, [0093, 0095]); install the received mandatory updates (e.g., required applications) { (see pg. 9, [0172, lines 4-6]; pg. 11, [0197, lines 1-6]). }

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Kawamata and Herschberg to have the feature(s) the available updates comprising available discretionary updates; determine that a first group of the available discretionary updates is relevant to the wireless computing apparatus, and that a second group of the available discretionary updates is irrelevant to the wireless computing apparatus; and depict representations of the available discretionary updates of the first group in a selectable manner to enable user control over installation of the relevant discretionary updates, in order to provide a system and method for managing application provisioning to one or more wireless devices, as taught by Herschberg (see pg. 1, [0005, lines 1-2]).

Regarding **claim 2**, Kawamata discloses every limitation claimed as applied above in claim 1. Kawamata does not specifically disclose having the feature(s) the executable instructions further operative, upon execution, to cause the wireless computing apparatus to select a desired discretionary update from said first group; and to obtain said desired discretionary update. However, the examiner maintains that the feature(s) operative to cause the wireless computing apparatus to select a desired discretionary update from said depicted relevant discretionary updates; and obtain said desired discretionary update was well known in the art, as taught by Herschberg.

Herschberg further discloses the feature(s)) the executable instructions further operative, upon execution, to cause the wireless computing apparatus (106) to select a

desired discretionary update (e.g., optional applications) from said first group { (see pg. 1, [0009, lines 7-13]; pg. 10, [0181, lines 1-4]; Figs. 1a & 46c), where an application is selected for downloading (see pg. 11, [0199, lines 10-16]; pg. 2, [0086, 0088, 0093]) }; and
to obtain said desired discretionary update { (see pg. 10, [0181, lines 11-13]; Fig. 46c). }

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Kawamata and Herschberg to have the feature(s) the executable instructions further operative, upon execution, to cause the wireless computing apparatus to select a desired discretionary update from said first group; and to obtain said desired discretionary update, in order to provide a system and method for managing application provisioning to one or more wireless devices, as taught by Herschberg (see pg. 1, [0005, lines 1-2]).

Regarding **claim 3**, Kawamata discloses every limitation claimed as applied above in claim 2. Kawamata does not specifically disclose having the feature(s) the executable instructions further operative, upon execution, to cause the wireless computing apparatus to install said obtained discretionary update. However, the examiner maintains that the feature(s) the executable instructions further operative, upon execution, to cause the wireless computing apparatus to install said obtained discretionary update was well known in the art, as taught by Herschberg.

Herschberg further discloses the feature(s) the executable instructions further operative, upon execution, to cause the wireless computing apparatus to install said obtained discretionary update (e.g., optional applications) { (see pg. 10, [0181, lines 11-13]; Fig. 46c).
}

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Kawamata and Herschberg to have the feature(s) the executable instructions further operative, upon execution, to cause the wireless computing apparatus to install said obtained discretionary update, in order to provide a system and method for managing application provisioning to one or more wireless devices, as taught by Herschberg (see pg. 1, [0005, lines 1-2]).

Regarding **claim 4**, Kawamata discloses update currently installed on the wireless computing apparatus (150) { (see col. 5, lines 63-64; col. 6, lines 24-25; Fig. 4 'ref. 445'), where the system determines that software is already possessed. } Kawamata does not specifically disclose having the feature(s) wherein said second group comprises an available discretionary update currently installed on the wireless computing apparatus. However, the examiner maintains that the feature(s) wherein said second group comprises an available discretionary update currently installed on the wireless computing apparatus was well known in the art, as taught by Herschberg.

Herschberg further discloses the feature(s) wherein said second group comprises an available discretionary update (e.g., not compatible including permission deny/unauthorized application) currently installed (e.g., resident) on the wireless computing apparatus (106) { (see pg. 1, [0007, lines 7-13]; pg. 4, [0092, 0095]; pg. 10, [0178]; Figs. 1a & 46c), where applications that are not compatible are denied or deleted from device (106). }

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Kawamata and Herschberg to have the feature(s) wherein said second group comprises an available discretionary update currently

installed on the wireless computing apparatus, in order to provide a system and method for managing application provisioning to one or more wireless devices, as taught by Herschberg (see pg. 1, [0005, lines 1-2]).

Regarding **claim 5**, Kawamata discloses update inapplicable to software is currently installed on the wireless computing apparatus (150) { (see col. 5, lines 63-64; col. 6, lines 24-25; Fig. 4 'ref. 445'), where the system determines that software is already possessed. } Kawamata does not specifically disclose having the feature(s) wherein said second group comprises an available discretionary update inapplicable to software currently installed on the wireless computing apparatus. However, the examiner maintains that the feature(s) wherein said second group comprises an available discretionary update inapplicable to software currently installed on the wireless computing apparatus was well known in the art, as taught by Herschberg.

Herschberg further discloses the feature(s) wherein said second group comprises an available discretionary update inapplicable (e.g., not compatible including downloaded application) to software currently installed (e.g., resident) on the wireless computing apparatus (106) { (see pg. 1, [0007, lines 7-13]; pg. 4, [0092, 0095]; pg. 10, [0178]; Figs. 1a & 46c), where applications that are not compatible are denied or deleted from device (106). }

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Kawamata and Herschberg to have the feature(s) wherein said second group comprises an available discretionary update inapplicable to software currently installed on the wireless computing apparatus, in order to

provide a system and method for managing application provisioning to one or more wireless devices, as taught by Herschberg (see pg. 1, [0005, lines 1-2]).

Regarding **claim 10**, Kawamata discloses a method of updating data on a wireless mobile device (e.g., terminal apparatus 1250, 150) { (see col. 10, lines 44-50; col. 3, lines 5-13,30-33; col. 11, lines 47-51; Figs. 1-2 & 12), where the software of the navigation unit is updated }, the method comprising:

requesting available updates by the wireless mobile device (1250, 150) { (see col. 10, lines 61-63; col. 11, lines 58-61; col. 12, lines 35-40; Figs. 13 'ref. 1305', 16 'ref. 1610') };

receiving by the wireless mobile device (1250, 150), in response to said requesting, an update catalog (e.g., software group) for available updates { (see col. 10, lines 61-63; col. 13, lines 24-28; Fig. 18) },

receiving by the wireless mobile device (1250, 150), with the update catalog, a mandatory update (e.g., software group necessary) { (see col. 10, lines 61-63; col. 13, lines 15-23,46-51; Figs. 7 & 18) };

installing by the wireless mobile device (1250, 150) the received mandatory update (e.g., software group necessary) { (see col. 13, lines 46-51; col. 14, lines 12-16; col. 10, lines 37-40; Figs. 7, 15 'ref. 1515', & 18) };

updates is incompatible with { (see col. 6, lines 42-44), where the software cannot be installed (see col. 8, lines 46-51) }, or

is currently installed on, the wireless computing apparatus (150) { (see col. 5, lines 63-64; col. 6, lines 24-25; Fig. 4 'ref. 445'), where the system determines that software is already possessed. } Kawamata does not specifically disclose having the feature(s) catalog

comprising available discretionary updates; determining by the wireless mobile device that a first group of the discretionary updates is compatible with, and is not currently installed on, the wireless computing apparatus, and that a second group of the available discretionary updates is incompatible with, or is currently installed on, the wireless computing apparatus; and depicting by the wireless mobile device the available discretionary updates of the first group in a selectable manner to enable user control over installation of the relevant discretionary updates. However, the examiner maintains that the feature(s) catalog comprising available discretionary updates; determining by the wireless mobile device that a first group of the discretionary updates is compatible with, and is not currently installed on, the wireless computing apparatus, and that a second group of the available discretionary updates is incompatible with, or is currently installed on, the wireless computing apparatus; and depicting by the wireless mobile device the available discretionary updates of the first group in a selectable manner to enable user control over installation of the relevant discretionary updates was well known in the art, as taught by Herschberg.

In the same field of endeavor, Herschberg discloses the feature(s) catalog comprising available discretionary updates (e.g., optional applications) { (see pg. 1, [0007, lines 7-9; 0009, lines 7-13]; pg. 4, [0093, 0095]), where the system has optional applications that the user has the option to download (see pg. 4, [0086, 0088]; Fig. 1a) };

determining by the wireless device (106) which reads on the claimed “wireless mobile device” that a first group of the discretionary updates (e.g., optional applications) is compatible with, and is not currently installed (e.g., not resident) on wireless device (106) which reads on the claimed “wireless computing apparatus” { (see pg. 1, [0007, lines 7-9;

0009, lines 7-13]; pg. 3, [0076]; pg. 4, [0093]; Fig. 2), where the system provides optional applications for downloading (see pg. 4, [0086, 0088]; pg. 10, [0181]; Figs. 1a & 46c) }, and that a second group of the available discretionary updates is incompatible (e.g., not compatible including permission deny/unauthorized application) with, or is currently installed (e.g., resident) on, the wireless computing apparatus (106) { (see pg. 1, [0007, lines 7-13]; pg. 4, [0092]; pg. 10, [0177-0178]), where applications that are not compatible are denied or not downloaded and where installed applications that are denied or incompatible are deleted from device (106) (see pg. 11, [0195; 0197, lines 11-15; 0198, lines 11-16; 0199, lines 6-10]) }; and

depicting by the wireless mobile device the available discretionary updates of the first group in a selectable manner to enable user control over installation of the relevant discretionary updates { (see pg. 1, [0009, lines 7-13]; pg. 10, [0181, lines 1-4]; pg. 11, [0199, lines 10-16]; Figs. 1a & 46c), where the system prompts a user to select optional applications for download. } As further support, Herschberg at the least discloses the feature(s) receiving by the wireless mobile device, with the update catalog, mandatory updates (e.g., required applications) { (see pg. 1, [0009, lines 7-13]; pg. 4, [0093, 0095]) }; installing by the wireless mobile device the received mandatory updates (e.g., required applications) { (see pg. 9, [0172, lines 4-6]; pg. 11, [0197, lines 1-6]). }

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Kawamata and Herschberg to have the feature(s) catalog comprising available discretionary updates; determining by the wireless mobile device that a first group of the discretionary updates is compatible with, and is not

currently installed on, the wireless computing apparatus, and that a second group of the available discretionary updates is incompatible with, or is currently installed on, the wireless computing apparatus; and depicting by the wireless mobile device the available discretionary updates of the first group in a selectable manner to enable user control over installation of the relevant discretionary updates, in order to provide a system and method for managing application provisioning to one or more wireless devices, as taught by Herschberg (see pg. 1, [0005, lines 1-2]).

Regarding **claim 11**, the combination of Kawamata and Herschberg discloses every limitation claimed, as applied above (see claim 10), in addition Kawamata further discloses the method of claim 10, wherein said determining comprises comparing, by the wireless mobile device, the update catalog to software currently installed on the wireless mobile device, wherein the software is at least one of an operating system or an application { (see col. 5, lines 47-66; Figs. 7 & 18). }

Regarding **claim 12**, Kawamata discloses every limitation claimed as applied above in claim 10. Kawamata does not specifically disclose having the feature(s) selecting, by the wireless mobile device, a desired discretionary update from said first group; and obtaining said desired discretionary update. However, the examiner maintains that the feature(s) selecting, by the wireless mobile device, a desired discretionary update from said first group; and obtaining said desired discretionary update was well known in the art, as taught by Herschberg.

Herschberg further discloses the feature(s) selecting, by the wireless mobile device, a desired discretionary update (e.g., optional applications) from said first group { (see pg. 1, [0009, lines 7-13]; pg. 2, [0086, 0088, 0093]; pg. 10, [0181, lines 1-4]; Figs. 1a & 46c) }; and obtaining said desired discretionary update (see pg. 10, [0181, lines 11-13]; Fig. 46c). }

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Kawamata and Herschberg to have the feature(s) selecting, by the wireless mobile device, a desired discretionary update from said first group; and obtaining said desired discretionary update, in order to provide a system and method for managing application provisioning to one or more wireless devices, as taught by Herschberg (see pg. 1, [0005, lines 1-2]).

Response to Arguments

7. Applicant's arguments with respect to claims 1-5 and 10-12 have been considered but are moot in view of the new ground(s) of rejection necessitated by the amended language and/or new limitations.

In response to applicant's arguments, the Examiner respectfully disagrees as the applied reference(s) provide more than adequate support and to further clarify (see the above claims for relevant citations).

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to 3 whose telephone number is (571)272-7907. The examiner can normally be reached on 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on (571) 272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on

Application/Control Number:
10/538,794
Art Unit: 2617

Page 18

access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Willie J. Daniel, Jr./
Examiner, Art Unit 2617

WJD,Jr
03 June 2010